MINUTES OF THE DEVELOPMENT & ENVIRONMENTAL SERVICES COMMITTEE OF UPPER HUNTER SHIRE COUNCIL HELD ON TUESDAY 9 JULY 2019 IN THE BARRY ROSE ROOM COMMENCING AT 10.00am

PRESENT:

Cr Ron Campbell (Acting Chair) and Cr Sue Abbott.

APOLOGIES:

Cr Kiwa Fisher and Cr Lee Watts.

IN ATTENDANCE:

Mr Mathew Pringle (Director Environmental & Community Services) and Miss Laura Conway (Administration Officer).

DECLARATIONS OF INTEREST:

Nil.

PUBLIC PARTICIPATION:

Nil.

SITE INSPECTIONS:

Nil.

BUSINESS ITEMS:

DESC.07.1 Development Application No. 57/2019 – Carport – 13 Somerset Place, Scone

The Director of Environmental & Community Services, M Pringle, gave a brief summary of the development application. He stated that the development application is non-compliant with the Upper Hunter Development Control Plan (DCP) as the carport is proposed forward of the building line. The development application received no submissions.

M Pringle stated that the proposed carport will have minimal impact on the streetscape due to the setbacks of the development. M Pringle stated he has no concerns regarding the impacts of the proposed development and recommends approval.

Cr Abbott advised that she had no concerns regarding the proposed development.

Cr Campbell also indicated that he had no concerns with the proposed development.

COUNCILLOR QUESTIONS:

Cr Abbott requested an updated on how the property at 7 Surman Street Scone was going to be maintained in a clean and tidy condition. M Pringle advised that the property will be managed by a local housing provider who will ensure that the property is maintained to a satisfactory standard. Council is currently obtaining quotes for cleaning and renovations for the property.

Cr Campbell also raised concerns over who will be responsible for the maintenance of the gardens. M Pringle stated that he will confirm this information.

Cr Abbott raised concerns regarding DA 177/2018 for the Scone RSL Club Motel at 70 Guernsey Street, Scone. Cr Abbott questioned the location of the air conditioning unit in the carpark of the RSL Club. She stated that is would have an effect on the air quality inside the building. M Pringle stated he...
will confirm the location of the air conditioning unit, but this issue would be assessed with the construction certificate either by Council or a private certifier.

Cr Campbell requested an update on the proposed highway service centre in Merriwa. M Pringle stated that the assessing officer is waiting on additional information regarding concerns over heritage impacts. Council staff are working with the applicant to ensure these issues are addressed satisfactorily.

Meeting closed at 10.28am.
DEVELOPMENT & ENVIRONMENTAL SERVICES COMMITTEE REPORTS

DESC.07.1 DEVELOPMENT APPLICATION NO. 57/2019 - CARPORT - 13 SOMERSET PLACE, SCONE

RESPONSIBLE OFFICER: Mathew Pringle - Director Environmental & Community Services

AUTHOR: Lachlan Melichar - Health & Building Surveyor

PURPOSE

On 14 May 2019, Council received Development Application No 57/2019 for a carport at Lot 9, DP 1207713, 13 Somerset Place, Scone.

The application is being reported to the Development and Environmental Services Committee, as the proposal does not comply with Part 4b.2 of the Upper Hunter Development Control Plan 2015.

RECOMMENDATION

That Council approve Development Application No. 57/2019 for the construction of a carport located at Lot 9, DP 1207713, 13 Somerset Place, Scone, subject to the conditions of consent set out in Attachment 1.

BACKGROUND

Application No: DA 57/2019
Applicant: Mrs C and Mr R Gray
Owner: Mrs C and Mr R Gray
Cl- Buildplan Consultants
8A/26 Balook Drive
BERESFIELD NSW 2322
Proposal: Carport
Location: Lot 9, DP 1207713, 13 Somerset Place, Scone
Lodged: 14 May 2019
Zone: R5 – Large Lot Residential

The subject lot was registered on 11 May 2015 pursuant to development consent DA 225/2009, with a dwelling house subsequently constructed pursuant to Complying Development Certificate CDC 26/2017.

REPORT/PROPOSAL

On 14 May 2019, Council received Development Application No 57/2019 for the erection of a steel skillion carport to the front façade of an existing dwelling, and partially forward of the building line set by the dwelling, at Lot 9, DP 1207713, 13 Somerset Place, Scone.

The development application is being reported to Council as the proposal does not comply with Outcome B of Part 4b.2 of the Upper Hunter Development Control Plan 2015, which requires structures ancillary to a dwelling to be built wholly behind the established building line.
Whilst this outcome does provide scope to permit a carport, or part thereof, to be constructed forward of the building line in certain circumstances, the subject lot does not benefit from any of the circumstances that would otherwise permit such a structure.

The circumstances prescribed are summarised as follows:
- There is an existing pattern of similarly located carports in the street;
- The topography of the land is such that the carport can form part of an existing slope or retaining wall;
- The topography of the land is such that the existing dwelling is located significantly below the street level;
- The dwelling is on a corner lot and the carport fronts the secondary street;
- The existing dwelling is setback significantly further than other dwellings in the street; or,
- The allotment is irregular in shape.

The existing dwelling has established the building line at 10m from the front boundary to its closet point, with articulation of the front façade setting the garage back 2.83m behind this point.

The building line is set at an oblique angle with respect to the front boundary and as such, setbacks tend to increase northwards along the frontage.

The carport will measure 6.7m wide and project 6m from the fascia at the garage, totalling 40.23m² in area, protruding forward of the building line by 3.62m, and will result in a finished setback of 6.38m from the front boundary at the closest proximity.

Where one of the aforementioned circumstances have been met, this outcome permits a carport or part thereof, up to 36m² to be constructed forward of the building line, to a setback of 1m from the front boundary and built to the side boundary.

This does not discriminate between lots based on lot size and, subject to meeting the merits set out in the preceding Outcome A of that part, a 2000m² lot is subject to the same concessions as a 300m² lot, provided that such a lot is within the R1, R5 or RU5 land use zones.

In drawing numerical comparisons with these provisions, in the instance that the proposal had met a prescribed circumstance, it is noted that the proposal exceeds these expectations as follows:
  a) The part of the carport forward of the building line will total 21.72m², which consequently is 14.28m² less than the maximum allowable;
  b) A setback of 6.38m from the front boundary, which significantly exceeds the 1m allowable otherwise permitted;
  c) A side setback of 5.64m as opposed to building to the side boundary.

Whilst the subject carport does exceed the maximum permitted width of 6m by 700mm, this is for the purposes of finishing flush with the width of the garage to the edge of the portico, and would otherwise be unnoticed by eye.

As set out in the planning assessment report, the proposal is demonstrated as being appropriate in respect of the site and locality, will not dominate the streetscape, and complies otherwise with the DCP.
In consideration of the above points, a variation to Outcome B so as to allow the carport to be constructed forward of the established building line is appropriate in this instance.

**OPTIONS**

1. Approve Development Application No. 57/2019 for the construction of a carport at Lot 9, DP 1207713, 13 Somerset Place, Scone, subject to the conditions of consent in Attachment 1;

2. Refuse Development Application No. 57/2019 for the construction of a carport at Lot 9, DP 1207713, 13 Somerset Place, Scone, and state the reasons for refusal;

3. Defer Development Application No. 57/2019 for the construction of a carport at Lot 9, DP 1207713, 13 Somerset Place, Scone, pending the receipt of further information.

**CONSULTATION**

Ancillary development is not required to be notified under Part 2 of the Upper Hunter Development Control Plan.

Notwithstanding, the proposal was notified between 29 May 2019 and 12 June 2019 for the purposes of applying proper consideration with respect to the public interest.

No submissions were received in relation to the application, suggesting that the community does not hold concerns with respect to such a development being carried out.

**STRATEGIC LINKS**

a. **Community Strategic Plan 2027**

   This report links to the Community Strategic Plan 2027 as follows:

   Built and Natural Environment

   Goal 4 - Plan for a sustainable future

   - Implement and regularly review Strategic Land Use Plans, Environmental Planning Instruments and Development Controls, which reflect the needs and expectations of the broad Community.
   - Provide efficient and effective advisory, assessment and regulatory services focused on being Customer ‘friendly’, responsive and environmentally responsible.
   - Plan, facilitate and provide for a changing population for current and future generations.

We are working to achieve the following Community Priorities:

Rural lifestyle and Country feel are valued and protected and the Upper Hunter Shire remains quiet, safe, healthy and welcoming.

The recommendation to Council has been made with the above goals and priorities in mind.

b. **Delivery Program**
Assessment of the application is in accordance with the Town Planning Community Strategies:

CS13 - Implement and regularly review Strategic Land Use Plans, Environmental Planning Instruments and Development Controls, which reflect the needs and expectations of the broad Community, and
CS14 – Provide efficient and effective advisory, assessment and regulatory services focused on being Customer ‘friendly’, responsive and environmentally responsible.

c. Other Plans

NIL

IMPLICATIONS

a. Policy and Procedural Implications

NIL

b. Financial Implications

Development application fees totaling $344.00 have been paid by the applicant.

c. Legislative Implications

An assessment of the development application has been undertaken pursuant to Section 4.15 of the Environmental Planning and Assessment Act 1979 (see attached report). The proposed development is permissible with consent within the R5 – Large Lot Residential land use zone.

d. Risk Implications

Council determinations of development applications in relation to local development can be appealed by a third party in the Land and Environment Court in circumstances where incorrect legal process has been applied.

Furthermore, the applicant has the right under Part 8 of the Environmental Planning and Assessment Act 1979 to appeal the decision of a consent authority to the Court.

In the case of this development application the relevant considerations under the Environmental Planning and Assessment Act 1979 have been made.

e. Other Implications

The construction of the proposed carport can act to set a precedent for other dwellings in the locality to pursue similar development, particularly via the circumstance prescribed in the previously discussed Outcome B, being as follows - “there is an existing pattern of similarly located carports or garages in the street”.

By establishing such a circumstance, any development applications elsewhere in Somerset Place will be deemed to comply with the DCP, where such does not exceed 36m² in area or 6m in width.

CONCLUSION
The application has been assessed as satisfactory against Section 4.15 of the Environmental Planning and Assessment Act 1979, Upper Hunter Local Environmental Plan 2013 and the Upper Hunter Development Control Plan 2015.

The proposal is unlikely to adversely impact the surrounding locality, and is considered to be an appropriate form of development for the site and within the land use zone.

Accordingly, it is recommended that the application be approved, subject to the imposition of appropriate conditions of consent, and for the following reasons:

- The proposal complies with the Upper Hunter Local Environmental Plan 2013;
- The proposal is generally consistent with the outcomes of the Upper Hunter Development Control Plan 2015;
- The proposal has been assessed as satisfactory against Section 4.15 of the Environmental Planning & Assessment Act 1979;
- Will not have an adverse impact on the surrounding locality;
- Community consultation did not result in the receipt of submissions against the proposal.

RECOMMENDATION

That Council approve Development Application No. 57/2019 for the construction of a carport located at Lot 9, DP 1207713, 13 Somerset Place, Scone, subject to the conditions of consent set out in Attachment 1.

Moved: Cr R Campbell     Seconded: Cr S Abbott     CARRIED